

REMARKS

Reconsideration and allowance of the present patent application based on the foregoing amendments and following remarks are respectfully requested.

By this Amendment, claims 1, 2, 15, and 21 have been amended. Claims 25-27 have been cancelled without prejudice or disclaimer. Applicant is not conceding that the subject matter encompassed by claims 25-27 prior to this Amendment is not patentable for the reasons raised by the Examiner. Claim 1, 2, 15, and 21 have been amended and claims 25-27 have been cancelled by this Amendment solely to facilitate expeditious prosecution. Applicant respectfully reserves the right to pursue claims, including the subject matter encompassed by claims 25-27.

Thus, claims 1-5, 7, 15-16, and 21-22 are pending. Support for the instant amendments is provided throughout the as-filed application. No new matter has been added.

Applicant traverses the §112, ¶1 and §103(a) rejections for the following reasons:

I. REJECTION UNDER 35 U.S.C. §112, ¶1

The Examiner rejected claim 2, under 35 U.S.C. § 112, ¶1, for allegedly failing to comply with the written description requirement. In particular, the Examiner asserted that claim 2 “recites that ‘the inner cavity is deformed by the insertion of the tube member so as to accommodate the septum.’ The specification does not describe an inner cavity that can be deformed and, therefore, the new limitation comprises new matter.” [Office Action, page 3]. Without acknowledging the propriety of the rejection, and solely in effort to expedite prosecution, Applicant has amended claim 2 to delete the claimed phrase in question. Accordingly, immediate withdrawal of the § 112, ¶1 rejection of claim 2 is respectfully requested.

The Examiner also rejected claims 25-27, under 35 U.S.C. 112, ¶1, for allegedly failing to comply with the enablement requirement. As noted above, claims 25-27 have been cancelled

and thus, the rejection thereof is moot. Accordingly, immediate withdrawal of the § 112, ¶1 rejection of claims 25-27 is respectfully requested.

II. REJECTION UNDER 35 U.S.C. §112, ¶2

The Examiner rejected claim 2, under 35 U.S.C. § 112, ¶2, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner asserted that claim 2 “recites that ‘the inner cavity is deformed by the insertion of the tube member so as to accommodate the septum’. It is unclear how an inner cavity can be deformed since a cavity is just a hollow space.” [Office Action, page 4]. Without acknowledging the propriety of the rejection, and solely in effort to expedite prosecution, Applicant has amended claim 2 to delete the claim phrase in question. Accordingly, the immediate withdrawal of the 35 U.S.C. § 112, ¶2 rejection of claim 2 is respectfully requested.

The Examiner also rejected claims 25-27, under 35 U.S.C. § 112, ¶2, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. However, as noted above, claims 25-27 have been cancelled and thus, the rejection thereof is moot. Accordingly, the immediate withdrawal of the 35 U.S.C. § 112, ¶2 rejection of claims 25-27 is respectfully requested.

III. REJECTIONS UNDER 35 U.S.C. § 103

A. The Examiner rejected claims 1, 2, 4, 7, 15, 21, 22 and 25-27, under 35 U.S.C. §103, as allegedly being unpatentable over U.S. Patent No. 6,193,697 to Jepson, *et al.* (hereinafter “Jepson”) in view of U.S. Patent No. 5,441,487 to Vedder (hereinafter “Vedder”).

Applicant respectfully disagrees with the propriety of the Examiner’s assertions. However, solely in an effort to expedite the successful examination of the present application, Applicant has amended independent claims 1, 15 and 21. In particular, independent claim 1 now positively recites, *inter alia*, “***wherein the circulating member is positioned such that a tip***

of the edge portion faces a gap region between the inner wall of the channel tube unit and the septum deformed by the insertion of the tube member, wherein the circulating member is configured to: circulate the first fluid injected from the inserted tube member to the gap region such that at least a portion of a surface of the septum is in contact with at least a portion of the circulating first fluid redirected by the circulating plate portion to substantially flush away any stagnant matter present on said surface of the septum.” Independent claims 15 and 21 include similar recitations.

These features are amply supported by the embodiments disclosed in the written description and drawings. (See, e.g., Original Specification, page 13, line 24-page 14 line 13 and Fig. 4). By way of illustration only, Fig. 4 shows one embodiment of the injection port which incorporates the circulating-plate portion 141 inside the body portion 112. The edge portion 144 of the circulating-plate portion 141 extends upwardly from the circular plate portion 143 such that the tip of the edge portion 144 faces the gap region 1141 defined between the deformed septum 130 and the wall of the inner cavity 114. The configuration and arrangement of the edge portion 144 permits fluid to flow along the grooves 1441 up to the gap region 1141 to flush away stagnant existing at the gap region.

Applicant submits that neither Jepson nor Vedder teaches or suggests the features in claim 1, including the features identified above. In fact, the Examiner concedes that Jepson fails to teach the claimed circulating member provided in the channel tube unit. [Office Action, page 5.] However, the Examiner has alleged that Vedder's valve 14 corresponds to the claimed circulating member and Vedder's actuator 26 corresponds to the claimed edge portion of the circulating member. [Office Action, page 5.]

In response to the Examiner's assertions, Applicant points out that the alleged teaching is not commensurate with the scope of claim 1 because claim 1 does not merely recite the circulating member - rather the claim specifically recites features related to the arrangement of the circulating member with respect to the inner wall of the channel tube unit and septum. In

particular, claim 1 recites ***the circulating member is positioned such that a tip of the edge portion faces a gap region between the inner wall of the channel tube unit and the septum deformed by the insertion of the tube member.***

Vedder fails to teach or suggest the above features of claim 1. For example, as shown in Fig. 4, Vedder discloses lip 90 of the septum 12 which comes in intimate contact with the inner wall of the housing 16 upon deformation caused by the insertion of lure lock 54. The deformed septum is in contact with the wall so closely that there is no clearance between the deformed lip 90 and the inner wall. As a corollary, Vedder cannot dispose the valve 14 such that the tip end of the actuator 26 of the valve 14 faces such a gap region between the deformed septum valve 12 and the inner wall of the housing 16. Indeed, there is not even a mention or suggestion in Vedder of ***a gap region between the inner wall of the channel tube unit and the septum deformed by the insertion of the tube member*** - much less that a ***circulating member [which] is positioned such that a tip of the edge portion faces a gap region***, as recited in claim 1.

Moreover, as shown in Fig. 4, Vedder teaches that the actuator 26 is arranged to be impacted by the edge of lure lock 54 so that fluid can flow through the lure lock 54 and actuator 26 along the path represented by Arrows A. [See, Vedder, col. 5, lines 26-32.] As such, the tip end of the actuator 26 does ***not*** face the region around the deformed lips 90 of septum valve 12, and, therefore, the actuator 26 cannot guide fluid towards the region where the deformed lips exist.

The Examiner has proposed adding Vedder's disc valve 14 and actuator 26 to Jepson's injection port. In particular, the Examiner alleged that "Jepson et al teaches a portion of a surface of a septum [52] that is capable of being contacted with fluid when a tube member is inserted into the septum (Figure 4B). Vedder teaches a portion of a septum [48], a first fluid that is redirected by a circulating plate portion [28] since fluid flows in two, opposite directions

(column 5, lines 26-42), and thus this first redirected fluid is capable of contacting the surface of the septum.” [Office Action, page 12.]

Applicant submits that, even if Vedder’s disc valve 14 (i.e., actuator 26 and circulating plate portion 28) could be applied to Jepson’s injection port as proposed by the Examiner (which Applicant does not concede), the disc valve 14 would logically be disposed such that the actuator 26 is impacted by Jepson’s cylindrical member 98 in the substantially same manner that it is disposed relative to Vedder’s lure lock 54. Such positioning would **not** allow the tip end of the actuator 26 to face a gap region defined between Jepson’s septum 52 and the inner wall of Jepson’s injection site 40. As such, the disc valve 14 can **not** direct the fluid towards the gap region between the gap region between the septum 52 and the inner wall of Jepson’s injection site 40. Instead, fluid would flow through the flow paths 88a and 98a to the flow path 68 (or vice versa) via the incorporated disc valve 14.

Thus, for at least the foregoing reasons, Applicant submits neither Jepson nor Vedder, whether taken alone or in combination, teach or suggest each and every element of independent claims 1, 15 and 21. As such, claims 1, 15 and 21 are neither anticipated nor rendered obvious by the cited references and is, therefore, clearly patentable. Moreover, because claims 3, 4 and 15 depend from claim 1, claims 2-5, 7, 16 and 22 are patentable at least by virtue of dependency as well as for their additional recitations.

B. The Examiner also rejected claims 3 and 16, under 35 U.S.C. §103, as allegedly being unpatentable over Jepson and Vedder, as applied to claims 2 and 15 above, and further in view of U.S. Patent No. 5,775,671 to Cote (hereinafter “Cote”). Applicant traverses this rejection for at least the following reasons.

As discussed above, the asserted combination of Jepson and Vedder does not teach or otherwise render obvious each and every feature of independent claims 1 and 15. Moreover, the Examiner merely relies upon Cote to allegedly teach features of the dependent claims.

Thus, for at least the foregoing reasons, Applicant submits that Jepson, Vedder, and Cote whether taken alone or combination, fail to disclose, teach or otherwise render obvious each and every feature of amended independent claims 1 and 15. Claims 3 and 16 ultimately depend from claims 1 and 15, and are patentable by virtue of dependency as well as for their additional recitations. Accordingly, the rejection of claims 3 and 16 under 35 U.S.C. § 103(a) over Jepson in view of Vedder and further in view of Cote should be withdrawn and the claims be allowed.

C. Claim 5 was rejected under 35 U.S.C. §103 as allegedly being unpatentable over Jepson and Vedder, as applied to claim 4 above, and further in view of U.S. Patent No. 5,817,069 to Arnett (hereinafter "Arnett").

As discussed above, the asserted combination of Jepson and Vedder does not teach or otherwise render obvious each and every feature of independent claims 1 and 15. Moreover, the Examiner merely relies upon Arnett to allegedly teach features of a dependent claim.

Thus, for at least the foregoing reasons, Applicant submits that Jepson, Vedder and Arnett, whether taken alone or combination, fail to disclose, teach or otherwise render obvious each and every feature of amended independent claim 1. Claim 5 ultimately depends from claim 1, and is patentable by virtue of dependency as well as for its additional recitations. Accordingly, the rejection of claim 5 under 35 U.S.C. § 103(a) over Jepson in view of Vedder and further in view of Arnett should be withdrawn and the claim be allowed.

Hence, in view of the foregoing, the immediate withdrawal of all rejections under U.S.C. §103(a) is respectfully requested.

CONCLUSION

Having addressed each of the foregoing objections and rejections, it is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, the application is in condition for allowance. Notice to that effect is respectfully requested.

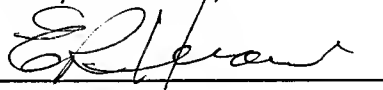
If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

If an extension of time is necessary to prevent abandonment of this application, then such an extension of time is hereby petitioned for under 37 C.F.R. §1.136(a). Any fees required (including fees for net addition of claims) are hereby authorized to be charged to **Deposit Account No. 033975** (Ref. No. **061639-0318680**).

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Respectfully Submitted,

By:



E. Rico Hernandez

Registration No. 47,641

Customer No.: 00909

PILLSBURY WINTHROP SHAW PITTMAN LLP

P.O. Box 10500

McLean, Virginia 22102

Direct: (703) 770-7788

Main: (703) 770-7900

Fax: (703) 770-7901